



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2147 FAX (603) 271-6588



**LETTER OF DEFICIENCY
WET 2003-15**

July 11, 2003

Leahey Realty Trust
c/o Mary Josephine Leahey, Trustee
369 S Lake Drive, G-3
Palm Beach, FL 33480-6509

**RE: DES Wetlands Complaint File #2003-01362, 2254 Ocean Blvd., Rye
Tax Map 5.3 Lot 71**

Dear Ms. Leahey:

On June 13, 2003, June 24, 2003 and July 2, 2003, personnel from the Department of Environmental Services ("DES") conducted inspections of the above referenced property, more specifically referenced on Town of Rye Tax Map 5.3 as Lot 71 (the "Property"). The purpose of the inspections was to determine compliance with RSA 482-A and NH Code of Admin. Rules Wt 100-700.

During the inspections the following deficiencies were documented

Approximately 6,080 square feet of sand dune, lowland, or submerged lands in wetlands jurisdiction seaward of the highest observable tideline was either dredged, excavated and/or filled without a permit from DES. This is a violation of RSA 482-A:3, I.

In response, you are requested to take the following actions

1. Replace or recontour sand removed from in front of your seawall sufficient to blend into the existing contours of each abutting property, particularly reestablishing protection to the vegetated dune to the south, and gradually tapered seaward into existing contours. ***This Letter of Deficiency serves as your permit or authorization to proceed with the restoration work under RSA 482-A:3, I.***
2. Conduct the sand replacement/restoration in coordination with and under the direct on-site supervision of DES Wetlands Bureau Administrator or designee, who will determine at what point replacement is deemed to be adequate. You are requested to contact me at least three working days prior to execution of the restoration so that a mutually convenient time and date can be arranged. DES Wetlands Bureau Administrator will have final approval of the date on which the replacement/ restoration work will occur. The replacement/ restoration to take place no later than August 15, 2003. Restoration should take place in a manner to minimize impacts to surrounding sand dunes and to prevent any water quality degradation.
3. Allow the restored beach area to move and recontour thereafter according to the natural dynamic of the beach and tidal action without interference. Hand-raking of accumulated

seaweed is allowed.

DES may construe any failure to respond to this Letter of Deficiency in a timely and complete manner as continuing noncompliance.

DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may be recorded with the Registry of Deeds as an encumbrance against your property.

All documents submitted in response to this Letter of Deficiency should be addressed as follows:

Mary Ann Tilton, Senior Enforcement Officer
Wetlands Bureau
Department of Environmental Services
6 Hazen Drive
PO Box 95
Concord, NH 03302-0095

Should you have any questions regarding this letter, or wish to arrange a meeting, please contact Ms. Tilton at (603) 271-4061 or me at 271-4054.

Sincerely,
COPY
Collis Adams, CWS
Bureau Administrator
Wetlands Bureau

CERTIFIED MAIL 7099 3400 0003 0688 1389

cc: Rene Pelletier, Manager, Land Resources Management Program
Gretchen Rule, Administrator, DES Legal Unit
Rye Conservation Commission
Rye Board of Selectmen
Susan Zarlengo, Rye Building Inspector
David Killoy, USACOE